



# UNITED STATES PATENT AND TRADEMARK OFFICE

*Ed*

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/781,012	02/10/2001	Rajesh Pankaj	000475	6434
23696	7590	05/23/2005	EXAMINER	
Qualcomm Incorporated Patents Department 5775 Morehouse Drive San Diego, CA 92121-1714			MOORE, IAN N	
			ART UNIT	PAPER NUMBER
			2661	

DATE MAILED: 05/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/781,012

Applicant(s)

PANKAJ ET AL.

Examiner

Ian N. Moore

Art Unit

2661

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 31 January 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-11, 14-22, 25, 26, 31, 32, 34, 35, 37 and 39-45 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9, 11, 14-17, 19-22, 25, 26, 31, 32, 34, 35, 37 and 39-45 is/are rejected.
- 7) ☒ Claim(s) 10 and 18 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Response to Amendment***

1. An objection to the title is withdrawn.
2. Claim rejection under 35 USC § 112, on claims 17,18,29 and 30 are withdrawn since they are being amended accordingly.
3. Claims 1-6,8-11,14,17-18,21-22,31-32,34-35, and 37 are amended, and new claims 39-45 are added.
4. Claims 1-9,11,14-17,19-22,25,26,31,32,34,35,37, and 39-45 are rejected by the new ground(s) of rejection necessitated by the amendment.

### ***Claim Objections***

5. Claims 10, 18 and 42 objected to because of the following informalities:  
Claim 10 recites "...at lest.." in line 2, and it should be corrected to "..at least.."  
Claim 18 is missing a period "." in line 4.  
Claim 42 is missing a period "." in line 4.  
Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the

Art Unit: 2661

applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. Claims 1,2,3,7,9,11,14,16,21,31,32,34,35,37,39-42, and 45 are rejected under 35 U.S.C. 102(e) as being anticipated by Niemela (US 6,452,914).

**Regarding Claim 31**, Niemela discloses an access terminal in a wireless communication system (see FIG. 2, MS or BTS in radio system), comprising:

a receiver (see FIG. 2, a receiver of MS 4, or a receiver of BTS 2; see FIG. 6, a receiver; see col. 5, lines 40-56) configured to receive a signal from an access network (see FIG. 2, a radio interface/network, Um) and determine at least one characteristic of a communication link through which the signal is received (see col. 4, lines 11-46; determining power levels of a received signal in a radio link);

A data processor (see FIG. 5-6; a combined processing means 101-104 or 202-205) configured to form a message indicative of a state of the communication link (see FIG. 1, burst message for power control) and assign a codeword to the message (see FIG. 3a-b and 4; codewords 1-7 or 1-8), the codeword having a minimum distance (see col. 5, lines 5-25; a codeword with minimum distance) based at least in part on the state of the communication link (see col. 4, lines 54 to col. 5, lines 5; codeword is determined according to the power control process/state of the radio link); and

a transmitter unit (see FIG. 2, a transmitter of MS 1, or a transmitter of BTS 3; see FIG. 5, a transmitter; see col. 5, lines 25-37) configured to transmit the message

(see FIG. 1, burst message) at a particular power level determined based at least in part on the message (see col. 4, lines 10-46).

**Regarding Claim 1**, a method claim which that substantially discloses all the limitations of the respective apparatus claim 31 with transmitting the first entity (see FIG. 2, MS or BTS; or see FIG. 6, a receiver/transmitter; see col. 5, lines 25-56) to a second entity (FIG. 2, BTS or MS; or see FIG. 5, a transmitter/receiver; see col. 5, lines 25-56). Therefore, it is subjected to the same rejection.

**Regarding Claim 2**, Niemela discloses the codeword is selected from a plurality of possible codewords codewords (see FIG. 3 and 4, codewords 1-7 or 1-8; see col. 4, lines 50 to col. 5, lines 4).

**Regarding Claim 3**, Niemela discloses wherein the power level is determined based at least in part on the minimum distance of the codeword (see col. 5, lines 5-15).

**Regarding claim 7**, Niemela discloses the at least one characteristic as comprises a carrier-to-noise-plus interference ratio (C/I) (see FIG. 4, C/I; see col. 5, lines 1-5, 63 to col. 6, lines 6).

**Regarding Claim 9**, Niemela discloses wherein the minimum distance of the codeword is based at least in part on a signal quality of the communication link (see col. 4, lines 20-25| 34-37; col. 5, lines 1-5; based on channel quality).

**Regarding Claim 11**, a method claim which that substantially discloses all the limitations of the respective apparatus claim 32 with transmitting the first entity (see FIG. 2, MS or BTS; or see FIG. 6, a receiver/transmitter; see col. 5, lines 25-56)

to a second entity (FIG. 2, BTS or MS; or see FIG. 5, a transmitter/receiver; see col. 5, lines 25-56). Therefore, it is subjected to the same rejection.

**Regarding Claim 14**, Niemela discloses wherein the transmit power level for the identified codeword is determined to achieve a particular level of performance (see FIG. 3a-b and 4; see col. 4, lines 50-67; codeword for power control).

**Regarding claims 16**, Niemela discloses the message to be transmitted is one of a plurality of possible messages (see FIG. 1, a normal burst, note that shown normal burst is one the plurality of possible normal burst that is transmitted between MS and BTS), and wherein the plurality of codewords in the alphabet (see FIG. 3 and 4, codewords in a group shown in FIG. 3a, 3b and 4) are assigned to the plurality of possible messages in accordance with a particular assignment scheme (see FIG. 1, DS; see FIG. 3 and 4; note that codewords in that each group of codeword is assigned to each burst message according to the particular power control scheme, such as increase or decrease or normal; see col. 3, lines 20-40 and col. 4, lines 46 to col. 5, lines 26).

**Regarding Claim 21**, a method claim which that substantially discloses all the limitations of the respective apparatus claim 32 wherein the first entity comprises an access terminal in the wireless communication system (see FIG. 2, MS or BTS; or see FIG. 6, a receiver/transmitter; see col. 5, lines 25-56). Therefore, it is subjected to the same rejection.

**Regarding claim 32**, Niemela discloses an access terminal (FIG. 2, MS or BTS) in a wireless communication system (see FIG. 2, digital radio system), comprising:

a data processor configured to identify (see FIG. 5-6, a combined processing means 101-104 or 202-205) a codeword associate with message (see FIG. 1, 3a-b and FIG. 4, a codeword in a message; see col. 4, lines 12 to col. 5, lines 5), wherein the identified codeword is one of a plurality of codewords (see FIG. 3 and 4, codewords 1-7 or 1-8) defined for an alphabet (see FIG. 3 and 4, a group of 7 codewords or a group of 8 codewords; note that a group of codeword is determined according to the power control process, steps and C/I ratio; see col. 4, lines 54 to col. 5, lines 5), and wherein at least two codewords in the alphabet (see FIG. 3b, codeword 1 and 2 of the group codeword) have unequal distances to their nearest codewords (see col. 5, lines 5-15; note that codewords in the group of codeword have various Hamming distances, and the minimum distance between the codewords are searched. Codeword 1 has the different distance from its nearest codeword 2),

the data processor further configured to determine a transmit power level for identified codeword (see FIG. 3a-b, 4; power levels of +4 dB, +2 dB, 0dB, and etc. for a specific codeword), based at least in part on a distance of the identified codeword to its nearest codeword in the alphabet (see col. 4, lines 46 to col. 5, lines 15); and

a transmitter unit (see FIG. 5, RF 105 and antenna 106) operatively coupled to the data processor and configured to transmit the identified codeword at the determined transmit power level (see col. 4, lines 10-46; col. 5, lines 5-39; 105 and 106 transmit the identified codeword at determined power level in accordance with tables in FIG. 3 a-b and FIG. 4).

**Regarding claim 34**, Niemela discloses a signal quality measurement unit configured to receive samples for a received signal (see FIG. 6, processor 203 of receiver 203 which has a capability of estimation received signal quality  $Q_{dl}$ ; also see FIG. 2, block 1, col. 2, lines 20-25; note that MS's processor 203 receives digitized samples from A/D 202) and to determine a received signal quality of signals transmitted from one or more transmitting sources (the processor estimates the received signal quality from BTS), and

wherein the transmit power level is associated with the received signal quality of a transmitting source to which the identified codeword is transmitted (see FIG. 3 and 4, codewords and see FIG. 5, processing means 103 and conversion means 104; see FIG. 2, see col. 4, lines 12-34 and see col. 5, lines 39-64; the transmitter sends the power control command with the identified codeword to the receiver based on the estimation of received power quality levels).

**Regarding Claim 35**, a communication unit claim which that substantially discloses all the limitations of the respective apparatus claim 31. Therefore, it is subjected to the same rejection.



Art Unit: 2661

**Regarding Claim 37**, an apparatus claim which that substantially discloses all the limitations of the respective apparatus claim 31. Therefore, it is subjected to the same rejection.

**Regarding Claim 39**, a claim which that substantially discloses all the limitations of the respective claim 3. Therefore, it is subjected to the same rejection.

**Regarding Claim 40**, a claim which that substantially discloses all the limitations of the respective claim 7. Therefore, it is subjected to the same rejection.

**Regarding Claim 41**, a claim which that substantially discloses all the limitations of the respective claim 6. Therefore, it is subjected to the same rejection.

**Regarding Claim 42**, a claim which that substantially discloses all the limitations of the respective claim 9. Therefore, it is subjected to the same rejection.

**Regarding Claim 45**, an apparatus claim which that substantially discloses all the limitations of the respective apparatus claim 32. Therefore, it is subjected to the same rejection.

### ***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Niemela (US 6,452,914) in view of Weaver (U.S. 5,715,526).

**Regarding claim 4**, Niemela discloses wherein the power level is determined based at least in part on the codeword being transmitted as described above in claim 1.

Niemela does explicitly disclose an expected frequency. It is well known in the art of wireless communication that, the frequency is reused by way of cells or sectors in order to utilized the allowable bandwidth provisioned by FCC, and MS operates within the expected and allowable frequency range, 850 MHZ for cellular and 1900 MHz for PCS. Thus, it is clear that determination of signal power is based upon expected frequency. Moreover, Weaver discloses wherein the power level is determined based at least in part on an expected frequency (see col. 5, lines 55-65; calculating the power base on new/expected frequency transmit signal).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide an expected and allowable frequency in wireless network, as taught by well established teaching in art and/or Weaver, so that it can accurately controls the transmit power level of a base station signal; see Weaver col. 5, line 35-47; also by determining the power according to expected and allowable frequency, it will enable the conformance of FCC regulation and increase the efficient bandwidth utilization of reusing expected allowable frequency.

10. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Niemela (US 6,452,914) in view of Cho (U.S. 6,049,633).

**Regarding claim 5**, Niemela discloses the power level is determined based at least in part on the codeword for a transmission as described above in claim 5.

Niemela explicitly discloses repeated for a particular number of times. However, Cho teaches determining based at least in part on a particular number of times the selected codeword is repeated (see FIG. 4D, code words 0,1,01 and 10; see col. 8, lines 16-57; note that as shown in table 130, the determining and processing a plurality of symbols codes at a time based upon the count of codeword is determined based upon number of time a selected code word (i.e. 0, 1, 01, 10 or 11) is counted and repeated; see col. 1, lines 41 to col. 2, lines 25).

In view of this, having the system of system of Niemela, then given the teaching of Cho, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the system of Niemela, for the purpose of determining and processing a plurality of symbol codewords based upon count of the codewords, as taught by Cho'633 as stated in col. 1, lines 35-40 and col. 2, lines 15-25, that it will provide an adaptive arithmetic coding scheme capable of processing a group of symbols at a time, and by utilizing a codeword table and corresponding count values to encode/decode data in a group of codes at a time, it will increase the speed of real-time data processing.

11. Claims 6, 8 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Niemela (US 6,452,914) in view of Komaili (U.S. 2003/0003446A1).

**Regarding claim 6**, Niemela discloses the first entity transmitting the message to second entity as described above in claim 1.

Niemela explicitly discloses a message indicative of a rate for a data transmission requested. In particular, Komaili'446 teaches the message is a data rate control message indicative of a rate for a data transmission requested from the second entity (see FIG. 7, steps 702-724; note that in step 702, MS receipt a frame/message with soft-coded rate bits from the BS. The MS sets the vocoder rate according to the requested rate from BS (step 706) and transmits the frame back to BS (step 712); see page 9, paragraph 99-103).

In view of this, having the system of system of Niemela, then given the teaching of Komaili'446, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the system of Niemela, for the purpose of MS sending a message frame of a data rate for a data transmission requested from BS, as taught by Komaili'446 as stated in page 1, paragraph 10-13, that it will provide a reliable communication between the MS and BS. The motivation being that by adjusting the rate between MS and BS in response to level of interference, it will increase the reliability of the network by providing best possible speech quality.

**Regarding claim 8**, Niemela discloses a message is selected from a plurality of data rate control messages (see col. 4, lines 1-46). Komaili'446 teaches the message is a data rate control message (see FIG. 7, steps 702-724; note that in step 702, MS receipt a frame/message with soft-coded rate bits from the BS. The

MS sets the vocoder rate according to the rate from BS (step 706) and transmits the frame back to BS (step 712); see page 9, paragraph 99-103).

In view of this, having the system of system of Niemela, then given the teaching of Komaili'446, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the system of Niemela, for the purpose of MS sending a message frame of a data rate for a data transmission, as taught by Komaili'446 as stated in page 1, paragraph 10-13, that it will provide a reliable communication between the MS and BS. The motivation being that by sending and adjusting the data rate between MS and BS in response to level of interference, it will increase the reliability of the network by providing best possible speech quality.

**Regarding Claim 20**, claim 20 that substantially disclose all the limitations of the respective claim 6. Therefore, it is subjected to the same rejection.

12. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Niemela in view of Salvarani (U.S. 6,760,597).

**Regarding claim 15**, Niemela discloses a particular level of performance as recited in above claim 14.

Niemela does not explicitly disclose one percentage frame error rate. However, Salvarani discloses one percentage frame error rate (see col. 3, lines 30-35; target 1% FER). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide 1% FER, as taught by

Salvarani in the system of Niemela, so that it would increase reliability of network while maintaining the quality imposed by the network and reliable method which comply with target FER without affecting power control information being conveyed over the at least one reliable link; see Salvarani col. 10, line 19-35.

13. Claims 17 and 43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Niemela in view of Dent (US 5,430,760).

**Regarding claim 17,** Niemela discloses the plurality of possible message such that messages more likely to transmitted are assigned with codewords having distances to their nearest codewords as described above in claim 11 and 16.

Niemela does not explicitly discloses higher transmit power levels are assigned to larger distances or assigning to larger distance. However, it is well known in the art that the plurality of possible messages more likely to be transmitted, or transmitted at higher transmit power levels, are assigned with codewords having larger distances or assigning to larger distance. Niemela teaches the MS and BTS station. Thus, depending on the location of the MS, MS transmits high or low transmit power in order to communicate with BTS. Thus, when MS is longer distance from the BTS, it transmits at high transmit power level with the associated longer distance codeword, whereas, MS is shorter distance from BTS, it transmits at lower transmit power level with the associated short distance codeword. In particular, Dent teaches discloses higher transmit power levels are assigned with codewords having larger distances to their nearest distance (see col. 13, lines 20-45; see col. 14, lines 20-35; greater power level for greater distance for each codeword). Therefore, it

Art Unit: 2661

would have been obvious to one having ordinary skill in the art at the time the invention was made to providing mechanism transmitting at higher power level for longer distance codeword, as taught by Dent in the system of Niemela, so that it would simply and effectively establish a call connection; see Dent col. 2, line 45-53; see col. 3, lines 55-67; and by transmitting a high transmit power for a longer distance codeword, it will increase the capability of ensuring to reach a longer distance BTS.

**Regarding Claim 43**, a claim which that substantially discloses all the limitations of the respective claim 17. Therefore, it is subjected to the same rejection.

14. Claim 19, 25, 26, and 44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Niemela in view of Halford (US 6,614,836).

**Regarding claim 19**, Niemela wherein the alphabet includes N codewords (see FIG. 3 and 4, codewords 1-8 or 1-7) having minimum distances (see col. 5, lines 5-20).

Niemela does not explicitly disclose minimum distance of  $d_{\text{sub.1}}$  through  $d_{\text{sub.N}}$ , and wherein the minimum distances conform to the  $d_1 \geq d_2 \geq \dots \geq d_{N-1} \geq d_N$  and  $d_1 > d_N$ . However, Halford'836 discloses minimum distance of  $d_{\text{sub.1}}$  through  $d_{\text{sub.N}}$ , and wherein the minimum distances conform to the  $d_1 \geq d_2 \geq \dots \geq d_{N-1} \geq d_N$  and  $d_1 > d_N$  (FIG. 5, where distance  $d_1$ ,  $d_2$ ,  $d_3$  and  $d_4$  and the minimum distance  $d_4 > d_1$ , where  $S_1$ - $S_4$  are the codeword signal (i.e.  $S_1$ ) has a minimum distance (i.e.  $d_1$ ); see col. 5, lines 40-65).

In view of this, having the system of system of Niemela, then given the teaching of Halford'836, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the system of Niemela'914, for the purpose of providing the selected codeword signal has the minimum distance, as taught by Halford'836, since Halford'836 states the advantages/benefits at see col. 3, lines 30-67 and see col. 5, lines 35-40 that it would provide optimal minimum distance receiver with improved performance by incorporating energy into receiver decision. The motivation being that by examining the distortion effects of multi-path channel by utilizing the distances on the signal received, it will improve the bias-corrected receiver.

**Regarding claim 25 and 26,** Niemela'914 discloses the plurality of codewords in the alphabet are associate in a signal constellation (see FIG. 3 and 4, a group of message, with related/associated to a group of codeword) and wherein at least two points in the signal constellation have unequal distances to their nearest codewords as described in claim 23.

Niemela does not explicitly disclose plurality of codewords are associate with a plurality of points in a signal constellation selected from points in signal constellation for QPSK. Halford plurality of codewords are associate with a plurality of points in a signal constellation selected from points in signal constellation for QPSK (FIG. 5, S1-S4 are the codeword signal (i.e. S1) and their associate points in QPSK constellation; see col. 5, lines 40-65).



In view of this, having the system of system of Niemela, then given the teaching of Halford'836, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the system of Niemela'914, for the purpose of associating relating signal codewords with points in QPSK constellation, as taught by Halford'836, since Halford'836 states the advantages/benefits at see col. 3, lines 30-67 and see col. 5, lines 35-40 that it would provide optimal minimum distance receiver with improved performance by incorporating energy into receiver decision. The motivation being that by examining the distortion effects of multi-path channel by utilizing the distances on the signal received, it will improve the bias-corrected receiver.

**Regarding Claim 44**, claim which that substantially discloses all the limitations of the respective claim 25. Therefore, it is subjected to the same rejection.

15. Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Niemela in view of Lundh (US 6,718,180).

**Regarding claim 22**, Niemela discloses the wireless communication system as described above in claim 11.

Niemela does not explicitly disclose CDMA system. However, the above-mentioned claimed limitations are taught by Lundh'180. In particular, Lundh'180 teaches a CDMA system (see FIG. 1-10, a CDMA system; see col. 4, lines 40-53; see col. 1, lines 20-50).

In view of this, having the system of system of Niemela, then given the teaching of Lundh'180, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the system of Niemela'91, for the purpose providing power control in CDMA system, as taught by Lundh'180 as stated in see col. 1, lines 30-40, col. 2, lines 1-30, that it will balance the transmit power between MS and BS which is important to CDMA system. The motivation being that by utilizing balance power control mechanism in the CDMA system, it will increase the reliability of the network while reducing the interference between MS, other MS and BS.

### ***Response to Arguments***

16. Applicant's arguments with respect to claims 1-6,8,9,11,14,17,21-22,31-32,34-35, 37, and 39-45 have been considered but are moot in view of the new ground(s) of rejection.

### ***Allowable Subject Matter***

17. Claim 10 is objected to as set forth in paragraph 5 and as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

18. Claim 18 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

19. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

20. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ian N. Moore whose telephone number is 571-272-3085. The examiner can normally be reached on M-F: 9:00 AM - 6:00 PM.

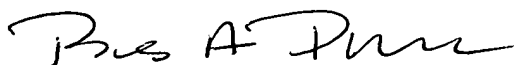
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chau T. Nguyen can be reached on 571-272-3126. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 2661

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

INM

*gnm*  
5/16/05



**BOB PHUNKULH  
PRIMARY EXAMINER**